E. COST RECOVERY

Act 410 provides an opportunity to recover costs from persons responsible £ the disposal after moneys have been expended from the environmental repa fund. The cost recovery provisions apply whether a site or facility is current in operation or is no longer in use. Cost recovery is obtained in a lawsuit filed I the Attorney General.

An owner or operator of a site or facility is "responsible," and cost recovery available, if the person knew or should have known at the time the dispos occurred that the disposal would be likely to result in the release of a substan< so as to cause a substantial danger to public health or welfare or the enviroi ment. Any person, including an owner or operator, is "responsible" if:

1. The person violated a statute, rule, plan approval or order in effect at tl time the disposal occurred and the violation caused or contributed to the cond tion at the site or facility; or
2. The person's action related to the disposal caused or contributed to tl condition of the site or facility and would result in liability under common la at the time the disposal occurred, based on existing knowledge and standards < conduct for that person at the time the disposal occurred.

The DNR is given authority to accept in-kind payments of environment repair work from responsible persons. In connection with the in-kind paymen the DNR is also authorized to enter into agreements to limit cost recovery or 1 waive part or all of the liability of the responsible person.

Two exceptions are provided for cost recovery: (1) no cost recovery is avai able for environmental repair work connected with releases of substances i compliance with a permit; and (2) no cost recovery is available from purchase of land who had no actual knowledge and no reason to know of the existence < a site or facility when the land was purchased.

E OTHER PROVISIONS

1. The DNR is authorized to undertake emergency action under the env ronmental repair program. This allows the DNR to bypass the consideratioi for determining the order of remedial action. The DNR is not required to hoi a hearing on a decision to undertake emergency action but the DNR's decisio is subject to judicial review.
2. The DNR is authorized to enter property at reasonable times and upo notice to the owner or occupant to take action under the environmental repa program. Notice is not required if delay may result in an imminent risk to pul lie health or safety or the environment.